IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

QUADRATEC, INC.,	:	
Plaintiff,	:	
vs.	:	Civil Action No.
THE AUTO SHOPS, LLC, a/k/a ALLTHINGSJEEP.COM,	:	
Defendant.	:	JURY TRIAL DEMANDED

COMPLAINT

Quadratec, Inc., Plaintiff in this cause, for its Complaint against Defendant, alleges and avers:

Parties

1. Plaintiff, Quadratec, Inc. (hereinafter QUADRATEC), is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, having a principal place of business at 1028 Saunders Lane, West Chester, PA 19380.

2. On information and belief, Defendant, The Auto Shops, LLC (hereinafter, AUTO SHOPS), is a limited liability company organized and existing under the laws of the State of California, and having a business address at 1945 Kyle Park Court, San Jose, CA 95125.

3. On information and belief, Defendant is also transacting business in the Commonwealth of Massachusetts and elsewhere under the name ALLTHINGSJEEP.COM, and has a place of business at 20 Middle Street, Suite 136, Pepperell, MA 01463. (The Auto Shops, LLC and ALLTHINGSJEEP.COM hereinafter jointly referred to as Defendant or AUTO SHOPS)

4. On information and belief, Defendant is transacting business by means of offering for sale and shipping goods into Pennsylvania, including the Eastern District of Pennsylvania. Further on information and belief, AUTO SHOPS owns and/or operates an interactive website, www.allthingsjeep.com for commercial purposes, including promoting, marketing, offering for sale, selling and advertising aftermarket Jeep® products. On information and belief, said website is available to be viewed by and the content thereof is accessible to persons located in Pennsylvania, including the Eastern District of Pennsylvania.

5. This action arises under the Count set forth below and seeks injunctive relief, damages, costs and attorneys' fees. In particular, QUADRATEC alleges on information and belief that AUTO SHOPS actions constitute copyright infringement in this District in violation of the Copyright Act, 17 USC §101 *et seq.*, and the actions by AUTO SHOPS have caused injury to QUADRATEC within Pennsylvania and this District.

Jurisdiction and Venue

6. This Court has jurisdiction of this action pursuant to 28 USC §1338(a), which provides for jurisdiction in the District Court for copyright claims; and pursuant to 28 USC §1331, which provides for jurisdiction of actions arising under the laws of the United States.

7. Venue is proper in this court under 28 USC §§1391(b) and 1400(a).

Factual Background

8. QUADRATEC and AUTO SHOPS are competitors. Both are, and have been at all times relevant to the matters alleged in this Complaint, engaged in the business of selling and offering for sale aftermarket parts and accessories for Jeep® branded vehicles (said aftermarket parts and accessories for Jeep® branded vehicles hereinafter referred to as "Jeep Products").

9. QUADRATEC was founded in 1990 and has become the world's leading independently owned supplier of such Jeep Products.

10. Since its inception, QUADRATEC has advertised its Jeep Products through magazine advertisements and direct-mail catalogs.

11. In 1995, QUADRATEC began to offer for sale its Jeep Products on its website www.quadratec.com.

12. QUADRATEC invests and has invested substantial financial and human resources to create tens of thousands of unique photographs of the Jeep Products it sells in print and on its website. In addition, QUADRATEC creates written copy to accompany the offerings of many of its Jeep Products.

13. QUADRATEC's success is due in large part to the substantial investment of time and hard work by its employees, *including its photographers*, who carefully select the Jeep Products to be photographed, and/or decide on the appropriate setting for the photographs, shoot the photographs of the Jeep Products in QUADRATEC's photographic studio and engage in all required post-production tasks to select and implement the photographs necessary to represent the Jeep Products for sale in its catalog and on its website, together with descriptive text.

14. QUADRATEC's unique and creative visual product presentations, including its original product photography, differentiate it from all of its competitors in the sales of Jeep Products.

15. The value of QUADRATEC's visual and textual product presentations lies in the quality and selection of the photographs and text associated with the Jeep Products offerings. These visual and textual product presentations are often the only exposure to the Jeep Products

that customers have before deciding to make a purchase, and these visual presentations are very important to a customer's decision to purchase Jeep Products from QUADRATEC.

16. QUADRATEC's visual and textual product presentations constitute unique, proprietary and economically valuable materials that are intended to present Jeep Products sold by QUADRATEC in their best possible light in order to assist customers in making their purchase decisions.

17. The quality and unique nature of QUADRATEC's visual and textual Jeep Products presentations provide QUADRATEC with important competitive advantages and provide a means for maintaining its customer base and attracting new customers.

18. QUADRATEC is the owner of all right, title and interest, including copyrights, in and to thousands of original photographs and textual materials prepared by its employees used to promote QUADRATEC's sales of Jeep Products.

19. QUADRATEC received from the Register of Copyrights Certificate of Registration No. VAu 1-143-820, Registration Date September 23, 2013 (the "820 Registration", Exhibit A) covering individually numerous images contained on the QUADRATEC website, www.quadratec.com, including the photo images identified hereinafter as Exhibits D-3, E-3, F-3, G-3, H-3, I-3 and J-3 (the Copyrighted Works.).

20. On information and belief, through its website www.allthingsjeep.com, Defendant, AUTO SHOPS, offers for sale many of the same Jeep Products as QUADRATEC. In this market, QUADRATEC and AUTO SHOPS are competitors.

21. On information and belief, AUTO SHOPS launched the www.allthingsjeep.com website in 2003.

22. On information and belief, AUTO SHOPS, without the authorization of QUADRATEC, has copied numerous photo images from QUADRATEC's website, www.quadratec.com, and has used those QUADRATEC images to advertise Jeep Products on its www.allthingsjeep.com website in competition with QUADRATEC.

23. On January 21, 2016, by letter to All Things Jeep, at Defendant's address in San Jose, California, (Exhibit B, attached) QUADRATEC advised Defendant that it was posting content on its www.allthingsJeep.com website that was identical to QUADRATEC's protected images and texts, and furthermore that the copied and reproduced images are the subject matter of the "820 Registration". In addition, QUADRATEC in its letter provided links to webpages from Defendant's www.allthingsjeep.com website showing specific content corresponding to and identical to the content on the QUADRATEC's website.

24. QUADRATEC's January 21, 2016, letter (Exhibit B) further demanded that Defendant:

> 1. Immediately disable the content currently posted on allthingsjeep.com and destroy or disable any other materials, whether web-based or in hard copy, bearing content copied from Quadratec;
>
> 2. Provide us with written assurances of compliance with the foregoing demands and its agreement not to use content copied from Quadratec in the future.

25. On information and belief, Defendant continues to reproduce and use QUADRATEC's copyrighted photo images that are covered by the '820 Registration.

26. In addition to QUADRATEC's letter of January 21, 2016, at all times since at least 1995, QUADRATEC's website has borne a copyright notice. See, Exhibit C, attached, where the copyright notice is identified as: "© 1995 – 2017, Quadratec, Inc. All rights reserved."

27. Attached as Exhibit D – 1 is a copy of the QUADRATEC website page at www.quadratec.com/products/14139_1101_07.htm showing QUADRATEC photographs of Vertically Driven Products 31600 Trash Can with Couple Holders. Attached as Exhibit D – 2 is a copy of the Defendant's ALLTHINGSJEEP.COM website page at www.allthingsjeep.com/vertically-driven-products-trash-can-with-cup-holders-Jeep-wrangler-JK-unlimited. html showing two photographs of Trash Can with Cup Holders by VDP. Furthermore, attached as Exhibit D-3 is a copy of QUADRATEC's copyrighted photographic image of the Vertically Driven Products 31600 Trash Can with Cup Holders covered by the '820 Registration.

28. On information and belief the ALLTHINGSJEEP.COM individual photographic image of the cup holder in Exhibit D-2 is identical to and a copy of QUADRATEC's photographic cup holder image found on QUADRATEC's website (Exhibit D –1) and the cup holder image (Exhibit D-3) covered by the '820 Registration.

29. Attached as Exhibit E – 1 is a copy of the QUADRATEC website page at www.quadratec.com/products/11186_60x_pg.html showing a QUADRATEC photograph of the Mopar® Jeep® Logo Cab Cover. Attached as Exhibit E – 2 is a copy of the ALLTHINGSJEEP.COM website page at www.allthingsjeep.com/cab-cover-jku-black-mopar.html showing a photograph of a Mopar Cab Cover for a Jeep Wrangler Unlimited. Furthermore, attached as Exhibit E – 3 is a copy of QUADRATEC's copyrighted photographic image of the Mopar Jeep Logo Cover covered by the '820 Registration.

30. On information and belief the ALLTHINGSJEEP.COM photographic image in Exhibit E-2 is identical to and a copy of QUADRATEC's photographic image found on

QUADRATEC's website (Exhibit E –1) and the photographic image (Exhibit E-3) covered by the '820 Registration.

31. Attached as Exhibit F – 1 is a copy of the QUADRATEC webpage at www.quadratec.com/products/12021_1001_07.html showing a QUADRATEC photograph of the Rugged Ridge Hardtop Insulation Kit for 07 – 17 Jeep Wrangler Unlimited JK 4 door with Factory Hard Top. Attached as Exhibit F – 2 is a copy of the ALLTHINGSJEEP.COM website page at www.allthingsjeep.com/hardtop-acoustic-sound-deadener-insulation-panel-jeep-wrangler-jk-4-door.html showing a 4 Piece Hard Top Acoustic Sound Deadener Insulation Panel by Rugged Ridge for 4 Door Jeep Wrangler JK (2007-2010). Furthermore, attached as Exhibit F-3 is a copy of QUADRATEC's copyrighted photographic image of the Rugged Ridge Hardtop Insulation Kit for 07 – 17 Jeep Wrangler Unlimited JK 4 door with Factory Hard Top covered by the '820 Registration.

32. On information and belief the ALLTHINGSJEEP.COM photographic image in Exhibit F-2 is identical to and a copy of QUADRATEC's photographic image found on QUADRATEC's website (Exhibit F –1) and the photographic image (Exhibit F-3) covered by the '820 Registration.

33. Attached as Exhibit G-1 is a copy of the QUADRATEC website page at www.quadratec.com/products/12021_1000_07.html showing a QUADRATEC photograph of the Rugged Ridge Hardtop Insulation Kit for 07 – 17 Jeep Wrangler JK 2 Door with Factory Hard Top. Attached as Exhibit G-2 is a copy of the ALLTHINGSJEEP.COM website page at www.allthingsjeep.com/rugged-ridge-insulation-panel-hardtop-jeep-wrangler-jk-2door.html showing a Hardtop Sound Insulation Kit for Jeep Wrangler JK 2 Door 2011-2017 By Rugged Ridge. Furthermore, attached as Exhibit G-3 is a copy of QUADRATEC's copyrighted

photographic image of the Rugged Ridge Hardtop Insulation Kit for 07-17 Jeep Wrangler JK 2 Door with Factory Hard Top covered by the '820 Registration.

34. On information and belief the ALLJEEPS.COM photographic image in Exhibit G-2 is identical to and a copy of QUADRATEC's photographic image found on QUADRATEC's website (Exhibit G –1) and the photographic image (Exhibit G-3) covered by the '820 Registration.

35. Attached as Exhibit H-1.1 is a copy of the QUADRATEC website page at www.quadratec.com/products/12051_0800_07.html showing a QUADRATEC photograph of the Smittybilt 76810 XRC Multi-Optional Design (M.O.D.) Front Bumper for 84-01 Jeep® Cherokee XJ. Attached as Exhibit H-1.2 is a copy of the Quadratec website page at https://www.quadratec.com/products/12051_0800_RS_07.htm showing a Quadratec photograph of the Smittybilt XRC M.O.D. Front Winch Bumper and Rear Bumper/Tire Carrier Combo with XRC Rock Sliders for 84-01 Jeep® Cherokee. Attached as Exhibit H-2 is a copy of the ALLTHINGSJEEP.COM website page at www.allthingsjeep.com/numbers-jeep-cherokee.html showing a photograph of Cherokee Bumpers. Furthermore, attached as Exhibit H-3 is a copy of QUADRATEC's copyrighted photographic image of the Smittybilt 76810 XRC Multi-Optional Design (M.O.D.) Front Bumper for 84-01 Jeep® Cherokee XJ and Smittybilt XRC M.O.D. Front Winch Bumper and Rear Bumper/Tire Carrier Combo with XRC Rock Sliders for 84-01 Jeep® Cherokee covered by the '820 Registration.

36. On information and belief the ALLTHINGSJEEPS.COM photographic image in Exhibit H-2 is identical to and a copy of QUADRATEC's photographic images found on QUADRATEC's website (Exhibit H –1.1 and H-1.2) and the photographic image (Exhibit H-3) covered by the '820 Registration.

37. Attached as Exhibit I-1 is a copy of the QUADRATEC website page at www.quadratec.com/products/11024_340.htm showing a QUADRATEC photograph of the Vertically Driven Products 5575 JKB KoolBreeze™ Brief Top in Black for 55-75 Jeep® CJ-5. Attached as Exhibit I-2 is a copy taken from the ALLTHINGSJEEP.COM website page at www.allthingsjeep.com/v dp-brief-camo.html showing a photograph of the KoolBreeze Mesh Camo Brief Top for Jeep Wrangler TJ 1997-2006 & Wrangler Unlimited LJ 2004-2006 by Vertically Driven Products. Furthermore, attached as Exhibit I-3 is a copy of QUADRATEC's copyrighted photographic image of the Vertically Driven Products 5575 JKB KoolBreeze™ Brief Top in Black for 55-75 Jeep® CJ-5 and covered by the '820 Registration.

38. On information and belief the ALLTHINGSJEEP.COM photographic image in Exhibit I-2 is identical to and a copy of QUADRATEC's photographic image found on QUADRATEC's website (Exhibit I –1) and the photographic image (Exhibit I-3) covered by the '820 Registration.

39. Attached as Exhibit J-1 is a copy of the QUADRATEC website page at www.quadratec.com/products/11161_43x_pg.htm showing a QUADRATEC photograph of the Mopar® Would Cover with Jeep® Logo for 07-17 Jeep Wrangler JK. Attached as Exhibit J -2 is a copy taken from the ALLTHINGSJEEP.COM website page at www.allthingsjeep.com/jeep-door-hinges-hood-latches.html. Furthermore, attached as Exhibit J-3 is a copy of QUADRATEC's copyrighted photographic image of the Mopar® Would Cover with Jeep® Logo for 07-17 Jeep Wrangler JK covered by the '820 Registration.

40. On information and belief the ALLTHINGSJEEP.COM photographic image in Exhibit J-2 is identical to and a copy of the photographic image found on QUADRATEC's website (Exhibit J-1) and the photographic image (Exhibit J-3) covered by the '820 Registration.

COUNT I
COPYRIGHT INFRINGEMENT

41. Plaintiff realleges paragraphs 1-40 as if fully set forth herein.

42. QUADRATEC is the owner of all right, title and interest in and to Copyright Certificate of Registration No. VAu 1-143-820, Registration Date September 23, 2013, (Exhibit A) which Registration includes the Copyrighted Works (Exhibits D-3, E-3, F-3, G-3, H-3, I-3, and J-3).

43. QUADRATEC's Copyrighted Works are original works of authorship of QUADRATEC as works made by QUADRATEC employees in the scope of their employment and are copyrightable subject matter under the copyright laws of the United States.

44. On information and belief, Defendant had access to QUADRATEC's Copyrighted Works on QUADRATEC's www.quadratec.com website, copied those works, and unlawfully reproduced them on Defendant's website www.allthingsjeep.com as shown in Exhibits D- 2, E-2, F-2, G-2, H-2, I-2, and J-2.

45. QUADRATEC did not authorize Defendant to reproduce the Copyrighted Works or to make derivative works based on the Copyrighted Works, and no agreement now exists or ever existed between the parties relating to such reproduction or creation of derivative works of the Copyrighted Works by the Defendant.

46. On information and belief, Defendant's website www.allthingsjeep.com is available on the Internet and is accessible in this jurisdiction.

47. On information and belief, Defendant has secured economic benefit from the use and/or publication of QUADRATEC's Copyrighted Works.

48. On information and belief, Defendant knowingly, willfully, and with disregard for QUADRATEC's rights copied QUADRATEC's Copyrighted Works onto its

www.allthingsjeep.com website for the purpose of being viewed by customers and for financial gain.

49. By the specific acts of copyright infringement alleged, as well as Defendant's entire course of contract, Defendant has caused and is causing QUADRATEC great and incalculable damage. By continuing to publish unauthorized reproductions of QUADRATEC's Copyrighted Works, Defendant threatens to continue committing copyright infringement. Unless this Court restrains Defendant from committing further acts of copyright infringement, QUADRATEC will suffer irreparable injury for which there is no adequate remedy at law.

50. Pursuant to 17 U.S.C. §502, QUADRATEC is entitled to preliminary and permanent injunctive relief restraining Defendant, its officers, agents and employees, and all persons acting in concert with them, from engaging in further such acts in violation of the Copyright Laws, 17 U.S.C. §§ 101 *et seq*.

51. Pursuant to 17 U.S.C. §503, QUADRATEC is entitled to the seizure and impounding by this Court of all copies made or used in violation of QUADRATEC's exclusive rights as alleged herein, and of all other articles by means of which such copies may be reproduced by Defendant.

52. Pursuant to 17 U.S.C. §504(b), QUADRATEC is entitled to all damages sustained as a result of Defendant's infringement and all Defendant's profits resulting from said infringement.

53. Pursuant to 17 U.S.C. §504(c)(2), QUADRATEC is entitled to an award of statutory damages.

54. Pursuant to 17 U.S.C. §505, QUADRATEC is entitled to recovery of full costs and reasonable attorneys' fees for the prosecution of this action.

PRAYER FOR RELIEF

WHEREFORE, QUADRATEC respectfully requests that this Court grant the following relief in favor of QUADRATEC against Defendant:

A. That pursuant to 17 U. S. C. §502, Defendant and its respective officers, agents, employees and attorneys, and those persons in active concert or participation with them or any of them, be preliminarily and permanently enjoined and restrained from using, copying, publishing, distributing or in any way disseminating QUADRATEC's Copyrighted Works.

B. That QUADRATEC receive any and all remedies available to it under the Copyright Law, 17 U. S. C. §§101 *et seq*., including:

a. pursuant to 17 U.S.C. §503, seizure and impounding by the Court of all copies made or used in violation of QUADRATEC's exclusive rights in the Copyrighted Works as alleged here in, and of all other articles by means of which such copies may be reproduced by Defendant;

b. pursuant to 17 U.S.C. §504 (b), all damages sustained as a result of Defendant's infringement of the Copyrighted Works and all Defendant's profits resulting from said infringement;

c. pursuant to 17 U.S.C. §504(c)(2), an award of full statutory damages for said infringement of each of Defendant's Copyrighted Works; and

d. pursuant to 17 U.S.C. §505, recovery of full costs and reasonable attorneys' fees for the prosecution of this action.

C. That an Order be entered:

a. compelling Defendant to use in its advertising only those photographs and images and text for which it has an express right to use, via authorization, license or otherwise;

b. compelling Defendant to review its product presentations, including the photographs and text it uses to advertise products for sale, and excise from them all materials for which it cannot determine as a matter of fact whether or not it has the right to use, via authorization, license or otherwise; and

c. compelling Defendant to advise the Court and QUADRATEC within 30 days of the manner in which it has complied with Subparts a and b of this Paragraph C.

D. That an order be entered compelling Defendant to account for all gains, profits and advantages derived by the Defendant by the acts complained of herein.

E. An assessment of costs of suit against Defendant, plus prejudgment and post-judgment interest on each and every award, and that judgment be entered against Defendant in favor of QUADRATEC for such damages, costs, expenses and interest as QUADRATEC has incurred in regard to this lawsuit.

F. That QUADRATEC be reimbursed its reasonable attorneys' fees to be fixed by the Court.

G. An order requiring Defendant to notify its customers of said injunction and the judgment of the Court.

H. An Order awarding punitive damages in view of Defendant's willful misconduct, malice and such entire want of care as would raise the presumption of conscious indifference to the consequences.

I. Such other and further relief, in law and in equity, to which QUADRATEC may be entitled under the circumstances.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury of all issues so triable.

Respectfully submitted,

CAESAR RIVISE, PC

Dated: August 22, 2017

By ______________________________

Eric S. Marzluf (I.D. #39763)
1635 Market Street
11th Floor - Seven Penn Center
Philadelphia, PA 19103-2212
215-567-2010 (P)
215-751-1142 (F)
<esmarzluf@caesar.law>